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EXAMINER

DAGER, JONATHAN M

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/757,462	Applicant(s) MORITA ET AL.	
	Examiner JONATHAN M. DAGER	Art Unit 3663	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) 5,7,8,10 and 14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4,6,9,11-13 and 15-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11 June 2008</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments, see pages 11-15, filed 29 July 2008, with respect to the rejection of claims 1, 16, and 22 under 35 U.S.C. 102(e) have been fully considered and are persuasive due to arguments and amendments. Therefore, the rejection of rejection of claims 1, 16, and 22 under 35 U.S.C. 102(e) has been withdrawn.

Subsequently, the prior art rejections of all claims dependent therefrom are withdrawn.

However, upon further consideration, new grounds of rejection are warranted (see below).

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 22-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 22-25 contain the embodiment "server means", and is supported throughout the specification. Thus, the claim language is treated under 35 USC 112, sixth paragraph. However, the specification fails to set forth the exact structure, or equivalent thereof, that corresponds to the claimed function.

"If the specification is not clear as to the structure that the patentee intends to correspond to the claimed function, then the patentee has not paid the price for use of the convenience of

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broad claiming afforded by 112, sixth paragraph but is rather attempting to claim in functional terms unbounded by any reference to structure in the specification. If one employs means-plus-function language in a claim, one must set forth in the specification an adequate disclosure showing what is meant by that language. If an applicant fails to set forth an adequate disclosure, the applicant has in effect failed to particularly point out and distinctly claim the invention as required by the second paragraph of section 112." See *Biomedino, LLC v Waters Technologies Corporation* (Fed Cir, 2006-1350, 6/18/2007).

Claim 26 is similarly rejected due to dependency on base claim 22.

Claim Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims are rejected under 35 U.S.C. 103(a) as being unpatentable over Coffee (US 6,611,755), and further in view of Janda (US 2004/0122688) and Arshad (US 2002/0084887).

Regarding claims 1, 15-17, and 22 (as best understood), Coffee discloses a vehicle fleet management information system, which identifies location and direction of movement of each vehicle in a fleet in real-time, and automatically reports such information, as well as status of predetermined events in which the vehicle is engaged, directly to the fleet manager. Each fleet vehicle has an assigned time slot to transmit its reporting information over a communications network without interfering with transmissions from other vehicles in their own respective time slots. A timing control phase lock loop (PLL) provides precise time synchronization for timing corrections from a global positioning system (GPS) based time reference. A dual band full-

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duplex interface of the network has TDMA on one-half and broadcast on the other half.

Microprocessor time processing units in components of the network perform precise clock synchronization. Space diversity performed on received vehicle transmitted messages avoids data corruption. Different vehicles have different periodic transmission intervals, by dynamically allocating the slots for various update rates. Auxiliary reporting slots enable prompt reporting of important data by the respective vehicle transmitters independent of the slower periodic transmission intervals (abstract).

Further, Coffee discloses that the fleet management system comprises a Mobile Data Terminal (tracker), and that antennas can be placed on a construction vehicle (figure 23).3.

3. Drawings and pictures can anticipate claims if they clearly show the structure which is claimed. See MPEP 2125.

Coffee next discloses that all trackers are assigned a 30 bit tracker ID at the factory, unique throughout the PROTRAK system. While this could be the only ID used to identify a tracker, a shorter ID is assigned to trackers when they receive their main repeating interval slot assignment, which allows the NDC Server to identify trackers in its RF network grid with fewer data bits. The shorter IDs consist of a Network ID and an Interface ID. Since two network sizes are used, the most significant bit of the 16 bit ID is used to indicate the network size (column 18 lines 33-40).

Thus, Coffee discloses a vehicle terminal device contains a fixed, unique identifier.

Also, Coffee discloses that the servers assign reporting intervals and time slots to vehicles so that they can send data and status changes automatically. Typical periodic updates of navigation data or other non-critical information are provided at two to three minute intervals; it is impractical for the vehicle computer (tracker) to wait for a periodic interval of that length to send time critical event data (column 3 lines 48-62).

Typical periodic updates of navigation data and other non-critical information are provided at two to three minute intervals. However, it is not practical for the tracker to wait for periodic intervals of that length to send time critical event data. Accordingly, for such events, the network maintains a number of time slots for additional access to the network on request of any vehicle needing to transmit event data. The requesting vehicle is then granted sufficient auxiliary reporting times at twelve second intervals to send its data. The total latency between an event being detected and the transmission of data is kept under thirty seconds (column 5 lines 23-33).

Coffee lastly discloses that the NDC runs two server applications, namely, an NDC Server 32 that provides real-time information to connected customers, and a tracking data log server 33 that collects tracking information from the system in real-time and stores it in a large capacity database, with additional capability to respond to queries for historical tracking data (column 10 lines 32-37).

Thus, Coffee discloses a server which is configured to assign a communication period to the mobile terminal.

Coffee discloses a DMCS (Database Management and CCS Server)) 27, which is responsible for management of vehicle profile information (e.g., vehicle identification number (VIN), state, license, make, model, year), provides this information to NDC server 42 in the form

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of a "Retrieve Vehicle Profile List" message (7106, Table 107), upon request. The NDC server typically makes this request if it knows a VIN (which it has learned from the "Retrieve Tracker Installation History Response" message) and needs additional information about the vehicle. If the VIN is not known, the Retrieve Vehicle Profile by Installed Tracker may be used. A Retrieve Vehicle Profile List Response message and Vehicle Profile Format are shown in Tables 108 and 109, respectively (column 69 lines 31-46).

Thus, Coffee discloses managing construction machine information unique to the construction machine.

Coffee does not explicitly disclose an ownership period, or managing terminal user information.

4. Janda, however, teaches a rental system, in which rental equipment 104 may include, for example, large equipment, such as bulldozers, automobiles, or other machinery, small equipment, such as jackhammers, air compressors, or tools, and accessories such as hoses or tools. Rental equipment 104 may also include goods such as fuel, oil, feed, fluids, gloves, saw blades, drill bits, etc. As used herein, the term "equipment" encompasses a broad array of tangible equipment and/or goods to be rented or purchased. Portable rental container 102 may include, for example, a general inventory of equipment that is typically needed by customers. The container may also include equipment specifically requested by a customer. Although three items are depicted in FIG. 1, one of skill in the art will appreciate that any number of pieces of equipment may be provided in portable rental container 102 (para 0020-0021).

The container may contain general inventory received by customers. In another embodiment, the container may contain inventory associated with the type of work being

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performed by the customer. In another embodiment, the portable container may include inventory based upon a specific customer's prior uses and/or type of business. The configuration of portable rental container 102 may be determined using computer 108 (para 0022).

Thus, it is taught that customers using the rental assets may have their prior histories saved for correlation with used equipment.

In one embodiment, Janda teaches that the access device 106 may receive input from a customer and communicate the input (or a portion thereof) to a computer such as computer 108 or a remote computer system. The computer may determine and/or verify that the customer should have access to portable rental container 102 and communicate the approval/rejection back to access device 106. In an alternative embodiment, access device 106 may include enough information locally to verify authorized access without communication with a remote system or computer 108 (para 0027).

Thus, a user is directly associated with ownership, and an ownership period, which can be managed by the server.

Janda, however, still does not teach the embodiment wherein the user is notified when the ownership period is ending.

5. Arshad, however, teaches another vehicle communication system, in which cures this the data stored in microcontroller 30 of the transponder may also include data downloaded from the vehicle itself, such as (1) the distance traveled by the vehicle, (2) the date and times of specific events, such as the time the vehicle was started, the time the vehicle was stopped, (3) time-triggered elapse records, such as service reminders, and a vehicle rental period expiring, (4) vehicle conditions, such as a threshold or maximum engine load experienced by the vehicle

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during operation, (4) the current odometer reading, (5) fault or error conditions experienced during operation, such as low fuel conditions, low oil or oil pressure conditions, engine coolant over-temperature, engine electrical output too low or too high, and (6) amount of consumables remaining in vehicle, such as the fuel level, coolant level, oil level, and hydraulic fluid level (para 0035).

All of the above inventions are drawn to vehicle state monitoring and reporting means. All of the components and methods are known in the above prior art. The only difference is a combination of these elements into a single device.

Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the ownership and notification properties of Janda and Arshad, respectively, onto the base device of Coffee, since all systems could be used in combination to produce the predictable result of a vehicle terminal configured to interact with a server, the server being configured to store all pertinent terminal, vehicle, and user data.

6. Combining prior art elements according to known methods to yield predictable results is a rationale to support a conclusion of obviousness. See MPEP 2143(a).

Regarding claims 6, 21, and 26, Coffee discloses that system allows the owner or dispatcher of the vehicle to define rectangular zones on a stored map of the metropolitan area of interest; for example, a zone 300 as shown in FIG. 34. The corners defining the zones (e.g., 301, 302, 303, 304 for zone 300) are sent to the vehicles so that the tracker can determine, based on its navigation solution, whether it is inside or outside any particular zone. These zones are typically

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set up to identify home or plant sites where vehicles are usually based or pick up cargo, or job sites where vehicles are usually dispatched to deliver cargo or perform a service (column 73 lines 39-49).

Further, Coffee discloses that zones can also define map regions for other purposes such as restricted speed, restricted weight, or borders that the vehicle is not allowed to cross. Using navigation alone, the tracker can report: Distance Traveled Between Zones Engine On and Off Driving Over a Specified Speed Driving at Inappropriate Times Unauthorized Stops Times of Arrival and Departure to and from Specified Locations (column 73 lines 50-60)

Lastly, Coffee discloses that vehicle locating systems have been developed using Global Positioning System (GPS) satellite information, and, for greater accuracy, differential GPS (DGPS) systems.

7. Claims 2-4, 9, 11, 13, 18-20, and 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Coffee (US 6,611,755), Janda (US 2004/0122688) and Arshad (US 2002/0084887), as applied to claims 1, 16, and 22, and further in view of Joao (US 2002/0016655).

Regarding claims 2-4, 18-20, and 23-25, as best understood, the above combination does not explicitly teach the overwrite, deletion, and rewrite capabilities as described with respect to change in ownership of the asset.

8. Joao teaches that the server is configured to store data and/or information regarding vehicle ownership, vehicle owner information, chains of title for any of the vehicles described herein, vehicle transfer and/or sale information, warranty information, extended warranty

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information, warranty claim history for each of the vehicles maintained and/or serviced via the apparatus and method of the present invention. The database 10H also contains the maintenance, servicing, and/or repair, histories for each of the vehicles maintained and/or serviced via the apparatus and method of the present invention. The database 10H also contains maintenance, servicing, and/or repair, schedules for each of the vehicles maintained and/or serviced via the apparatus and method of the present invention (para 0178).

The database 10H can also contains data and/or information regarding the equipment and parts which are found in each vehicle, vehicle equipment and/or parts listings and/or inventories, and/or any other data and/or information regarding the equipment and parts found in each vehicle, original equipment manufacturer information, after-market provider information, manufacturers information, equipment and/or parts providers information, as well as cross referencing information to substitute and/or replacement equipment and/or parts, for any of the vehicles described herein (para 0179).

The data and/or information stored in the database 10H can also be updated by and/or dynamically linked to, various external sources, including but not limited to vehicle and vehicle-related information sources, news services, research publications, research facilities, research institutions, testing facilities, consumer reporting entities, and/or any of the of the respective users, vehicle owners, vehicle operators, vehicle maintenance managers, vehicle computers, vehicle dealers computers, vehicle manufacturers, vehicle service providers, vehicle parts providers, service payers, vehicle insurance providers, and/or intermediaries, described herein (para 0207).

The data and/or information which is contained and/or stored in the database 10H, as well as any of the other database 20H, 30H, 40, 50H, 60H, 70H, 80H, 90H, and/or 95H, described herein, can be obtained from the various users, vehicle owners, vehicle operators, vehicle manufacturers, vehicle dealers, vehicle service providers, vehicle parts providers, vehicle insurers, vehicle insurance providers, vehicle service payers, vehicle warranty providers, vehicle managers, vehicle maintenance managers, and/or any agents, brokers, and/or intermediaries and/or third parties, described herein (para 0208).

Thus, Joao teaches database modification, in which new equipment user information can be rewritten or otherwise modified in the server with respect to ownership data and vehicle data.

Regarding claims 9, 11, and 13, Coffee discloses that system allows the owner or dispatcher of the vehicle to define rectangular zones on a stored map of the metropolitan area of interest; for example, a zone 300 as shown in FIG. 34. The corners defining the zones (e.g., 301, 302, 303, 304 for zone 300) are sent to the vehicles so that the tracker can determine, based on its navigation solution, whether it is inside or outside any particular zone. These zones are typically set up to identify home or plant sites where vehicles are usually based or pick up cargo, or job sites where vehicles are usually dispatched to deliver cargo or perform a service (column 73 lines 39-49).

Further, Coffee discloses that zones can also define map regions for other purposes such as restricted speed, restricted weight, or borders that the vehicle is not allowed to cross. Using navigation alone, the tracker can report: Distance Traveled Between Zones Engine On and Off

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Driving Over a Specified Speed Driving at Inappropriate Times Unauthorized Stops Times of Arrival and Departure to and from Specified Locations (column 73 lines 50-60)

Lastly, Coffee discloses that vehicle locating systems have been developed using Global Positioning System (GPS) satellite information, and, for greater accuracy, differential GPS (DGPS) systems.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JONATHAN M. DAGER whose telephone number is (571)270-1332. The examiner can normally be reached on 0830-1800 (M-F).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Keith can be reached on 571-272-6878. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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JD

08 December 2008

/Jack W. Keith/

Supervisory Patent Examiner, Art Unit 3663